



California Fair Political Practices Commission

January 15, 1986

Thomas J. Harron
City Attorney
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010

Re: Your Request for Advice
Our File No. I-86-027

Dear Mr. Harron:

Pursuant to your written request, we are providing this Informal assistance to you regarding your questions of interpretation of the provisions of the Political Reform Act.^{1/} This assistance is provided pursuant to 2 Cal. Adm. Code Section 18329(c), a copy of which is enclosed. The first question posed by your letter is as follows:

QUESTION 1

Councilman had a long term lease on a piece of real property. Councilman later enters into a sublease with Party X which pays the property owner the same amount of rent (no additional monies are paid to me). Party X repays councilman his security deposit. Does the security deposit (over \$250) need to be disclosed?

RESPONSE 1

Income as defined in Section 82030(a) includes "foregiveness of indebtedness." The definition also includes any "payment." Payment is defined as follows:

"Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

Section 82044.

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Thomas J. Harron
January 15, 1986
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Consequently, the payment of the \$250+ security deposit would be reportable as income as would the payment of rent to the primary lessor (since that is essentially "forgiving the indebtedness" of the Councilmember to the primary lessor). Since both types of income are from the same source, they would be aggregated and the total amount would be disclosed on Schedule D, unless the Councilman is functioning as a business entity. In the latter event, disclosure of the source of income would be on Schedule H at the \$10,000 threshold, while the income would be disclosed on Schedule D as coming from the business entity. (The investment in the business entity would be disclosed on Schedule A.) In addition, since the leasehold interest in the real property is a year or more, it must be disclosed on Schedule B.

QUESTION 2

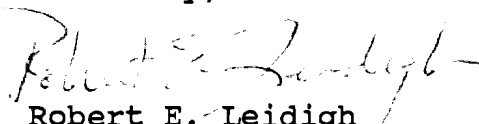
Party Y enters into a contract with Party A for completion of a job. Party A cannot perform the contract, so A hires councilman to do a portion of the job. Party A pays councilman his fee. Who does the councilman disclose on the payment of the fee? Councilman was paid by A, but A was paid by Y.

RESPONSE

So long as A independently made the decision to hire the Councilman and was not acting as Y's agent for that particular purpose, i.e., Y did not direct A to hire Councilman, A is the source of the income.

I trust this has adequately responded to your questions. If you need further clarification, please do not hesitate to contact me at (916) 322-5901.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure



OFFICE OF THE CITY ATTORNEY

F P P C
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January 3, 1986

Robert E. Leidigh
Counsel
Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804-0807

Dear Bob:

This letter is a follow-up to our conversation in which I asked for your advice on a couple of disclosure questions which one of our councilmen asked of me. The first question involved the following fact situation:

Councilman had a long term lease on a piece of real property. Councilman later enters into a sublease with Party X which pays the property owner the same amount of rent (no additional monies are paid to me). Party X repays councilman his security deposit. Does the security deposit (over \$250) need to be disclosed?

You advised me that income includes forgiveness of indebtedness or payment of indebtedness. That being the case, I would assume that the security deposit would need to be disclosed.

The second question involved the following fact situation:

Party Y enters into a contract with Party A for completion of a job. Party A cannot perform the contract, so A hires councilman to do a portion of the job. Party A pays councilman his fee. Who does the councilman disclose on the payment of the fee? Councilman was paid by A, but A was paid by Y.

You tentatively advised me that since Party A made the decision to hire the councilman, Party A is the payor. You did advise me that you wanted to discuss this with other staff attorneys for the FPPC before making a final response.

Robert E. Leidigh
January 3, 1986
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Your assistance in this matter is most appreciated.

Very truly yours,



Thomas J. Harron
City Attorney

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California Fair Political Practices Commission

January 10, 1986

Thomas Harron
Chula Vista City Attorney
276 Fourth Avenue
Chula Vista, CA 92010

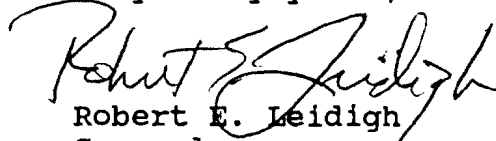
Re: 86-027

Dear Mr. Harron:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Robert E. Leidigh
Counsel
Legal Division

REL:plh